

SENATE, No. 2555

[July 20, 2010 - Text of further Senate amendment (Brewer) to the House amendment to the Senate Bill authorizing the department of fish and game to acquire land of the town of Athol and to acquire a conservation restriction on lands of the town of Athol in exchange for grants of easements to the town of Athol (Senate, No. 2451).]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND TEN

1 SECTION 1. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or
2 any other general or special law to the contrary, the commissioner of capital asset management and
3 maintenance, in consultation with the commissioner of fish and game, may take under chapter 79 of the
4 General Laws or otherwise acquire and the town of Athol may convey all or portions of certain parcels of
5 land identified in section 2 for the preservation and protection of wildlife habitat, passive recreation and
6 consistent purposes. The parcels, if taken and not otherwise acquired, shall be subject to any easement or
7 lesser interest in land held by any person or governmental agency, except for the town, that lawfully
8 exists and is recorded in the appropriate registry of deeds, unless the commissioner capital asset
9 management and maintenance expressly takes the easement or lesser interest by eminent domain under
10 said chapter 79. The commissioner of capital asset management and maintenance, in consultation with
11 the commissioner of fish and game, may determine the exact boundaries of the parcels of land after
12 completion of a survey

13 SECTION 2. The parcels of land, including lands under water, to be acquired from the town of
14 Athol under section 1 are identified as follows: land in the towns of Athol and Phillipston, including

lands under water, located along South Royalston road, Cobb Hill road, Willis road, Schoolhouse road and state highway route 2A associated with Thousand Acre Reservoir, Thousand Acre Brook and its watershed, described in deeds to the town of Athol recorded at the South Worcester district registry of deeds in book 1981, page 401; book 2077, page 117; book 2338, page 177; book 2283, page 136; book 2123, page 368; book 3530, page 442; book 1947, page 283; book 2145, page 479; and book 1836, page 133 (parcels 13 and 14).

SECTION 3. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of fish and game, may convey to the town of Athol easements or lesser interests for the purpose of installing and maintaining water mains across all or portions of a certain parcel of land of the commonwealth identified in section 4. The commissioner of capital asset management and maintenance, in consultation with the commissioner of fish and game, may determine the exact boundaries of the water main easements after completion of a survey.

SECTION 4. The parcel of land to be subject to the water main easements under section 3 is identified as follows: land in Athol described in a deed to the commonwealth recorded at the south Worcester district registry of deeds at book 14525, page 380 and shown on plan entitled "Plan of Land in Athol owned by Lois E. Lawrence" recorded at the south Worcester district registry of deeds in plan book 407, plan 8.

SECTION 5. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of fish and game, may convey to the town of Athol easements or lesser interests for drinking water supply wellhead protection over all or portions of a certain parcel of land of the commonwealth identified in section 6. The commissioner of capital asset

management and maintenance, in consultation with the commissioner of fish and game, may determine the exact boundaries of the easements or lesser interests after completion of a survey.

SECTION 6. The parcel of land to be subject to the wellhead protection easements under section 5 is identified as follows: land in Athol described in a deed to the commonwealth recorded at the south Worcester district registry of deeds in book 16041, page 160 and shown on a plan entitled "Plan of Land in Athol, Massachusetts prepared for Mount Grace Land Conservation Trust, Inc." recorded at the south Worcester district registry of deeds in plan book 670, plan 86.

SECTION 7. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of fish and game, may convey to the town of Athol easements or lesser interests for the construction, maintenance and use of a bicycle path across all or portions of a certain parcel of land of the commonwealth identified in section 8. The commissioner of capital asset management and maintenance, in consultation with the commissioner of fish and game, may determine the exact boundaries of the bike path easement after completion of a survey.

SECTION 8. The parcel of land to be subject to the bicycle path easements under section 7 is identified as follows: land in Athol described in a deed to the commonwealth recorded at the south Worcester district registry of deeds at book 16041, page 160 (parcel III).

SECTION 9. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary and in consideration for the conveyances authorized in sections 3 to 8, inclusive, the commissioner of capital asset management and maintenance, in consultation with the commissioner of fish and game, may take under chapter 79 of the General Laws or otherwise acquire and the town of Athol may convey easements or lesser interests through a conservation restriction under sections 31, 32 and 33 of chapter 184 of the General Laws for the preservation and protection of wildlife habitat and passive recreation and consistent purposes, in all or portions of certain parcels of land

62 identified in section 10. The parcels were acquired by the town of Athol for water supply purposes. The
63 conservation restriction authorized by this section shall allow for the town to retain the right to use the
64 premises as a potential water supply for the town. The conservation restriction, if taken and not otherwise
65 acquired, shall be subject to any easement or lesser interest in land held by any person or governmental
66 agency, except for the town, that lawfully exists and is recorded in the appropriate registry of deeds,
67 unless the commissioner capital asset management and maintenance expressly takes the easement or
68 lesser interest through eminent domain under said chapter 79.

69 SECTION 10. The parcels of land, including lands under water, to be subject to the conservation
70 restriction under section 9 are identified as follows: land in Athol, including lands under water, located
71 along South Royalston road and Bearsden road, associated with Newton Reservoir and its watershed,
72 described in deeds to the town of Athol recorded at the south Worcester district registry of deeds in book
73 3543, page 194; book 1995, page 600; and book 1836, page 133 (parcels 24, 25, 26, 27, 28, 29 and 30).

74 SECTION 11. The consideration for the 3 easements described in sections 3 to 8, inclusive, and
75 the conservation restriction described in sections 9 and 10 shall be the full and fair market value of the
76 easements or conservation restriction for the uses authorized by this act, as determined by the
77 commissioner of the division of capital asset management and maintenance based upon 1 or more
78 independent professional appraisals. The authorization granted in said sections 3 to 10, inclusive, shall be
79 contingent on the appraised value of the conservation restriction described in sections 9 and 10 being
80 equal to or greater than the appraised value of the 3 easements described in sections 3 to 8, inclusive, as
81 determined by 1 or more independent professional appraisals; provided, however, that the commissioner
82 of capital asset management and maintenance may accept the findings of previous appraisals of the
83 easements or conservation restriction conducted by an appraiser acceptable to the commissioner.

84 SECTION 12. Notwithstanding any other general or special law to the contrary, the inspector
85 general shall review and approve the appraisals required pursuant to section 11. The inspector general

may prepare a report of his review of the methodology utilized for the appraisal and may file the report with the commissioner of capital asset management and maintenance. Within 15 days after receiving the inspector general's report but not later than 15 days before the execution of any agreement or other document under this act, the commissioner may submit the report to the house and senate committees on ways and means and the joint committee on state administration and regulatory oversight.

SECTION 13. Costs and expenses associated with the transactions authorized in this act shall be apportioned as agreed by the town of Athol and the department of fish and game.